CALIFORNIA ASSOCIATION OF REALTORS®

May 10, 2005

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

2005 OFFICERS

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President

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Treasurer

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Executive Vice President/
State Secretary

Re: RIN 3064 – AC89
Community Reinvestment Act

Executive Secretary Feldman:

On behalf of the 155,000 members of the California Association of REALTORS®, I submit the following comments on the proposed rule regarding the Community Reinvestment Act. C.A.R.'s members are engaged in the business of real estate brokerage, sales, management and financing. REALTORS® are active in their communities as small businesses, homeowners, and concerned citizens. REALTORS® believe that homeownership is the best way to build community participation and a better quality of life for all Americans. It is important to remember that homeownership is a ladder and that each rung is as important as the next. Renters today are the homebuyers of tomorrow. It is with this holistic view towards homeownership that REALTORS® feel compelled to comment on the substantial impact that these proposed changes may have on affordable housing for low and moderate income individuals and families.

Specifically, C.A.R. would like to focus its comments on the Federal Deposit Insurance Corporation's (FDIC) request for comments on;

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> **“Should the community development test for intermediate small banks be separately rated as proposed? If so, should an intermediate small bank be required to achieve a rating of at least “satisfactory” under both the small bank lending and community development tests to achieve an overall “satisfactory” CRA rating? Should the bank’s community development test performance be weighted equally with its lending test performance in assigning an overall CRA rating? Would other ratings floors or weights be appropriate to provide greater flexibility in certain circumstances? If so, under what circumstances?”**

C.A.R. supports the separation and equal rating of both the lending test and community development test for intermediate small banks. Additionally C.A.R. requests that the FDIC evaluate the community development requirement for intermediate small banks based on **BOTH** the lenders **INVESTMENT** and **SERVICE** performance equally. According to the proposed rule, “the federal banking agencies intend that the proposed community development test would be applied flexibly to permit a bank to apply its resources strategically to the types of community development activities (loans, investments, and services) that are most responsive to helping to meet community needs, even when those activities are not necessarily innovative, complex, or new.” By allowing intermediate small banks to meet their community development requirement by performing the same services as those required by their lending requirements would be redundant and detrimental to the community they serve. Further more, the increased assets of intermediate banks should require them to be held to higher standards within their community. Allowing them to focus on either investment or services would only harm the communities they serve. If intermediate banks were allowed to focus solely on services to a community and neglect investments, low- and moderate- income communities within California would be directly impacted.

According to the California Building Industry Association (“CBIA”) 2005 housing forecast, California is not producing sufficient housing for its growing population. It is estimated that 250,000 new homes and apartments are needed each year to accommodate California’s growing population. However, CBIA estimates only 210,000 housing starts in 2005. Thus, 40,000 households will be left without housing. This situation will strain current housing supply and force overcrowding situations as multiple households are forced to reside under the same roof.
In addition, a majority of the new homes that will be constructed will be out of the financial reach of many first-time homebuyers. In November 2004, the median home price in California was $473,260 and the median household income needed to purchase the home was $109,670 assuming a 20% down payment of $94,652. As is apparent by these numbers, there are few new homebuyers that would have the financial resources to purchase housing in California. As purchasing a home becomes more out of reach, Californians are forced to turn to rental housing to meet their housing needs.

Starting in the early 1990’s the supply of multifamily housing as a percentage of all homes being built has dropped significantly. In 1990, 37% of all housing permits were issued for multifamily (including rental) housing. However, in 2003 this number had fallen to 29%. Again, this is at a time when California’s rental housing needs have continued to grow due to increased population and lack of affordable housing. A major cause for this drop has been the dramatically increased amount of litigations related to multifamily construction. As a result, investors and developers are less willing to develop this form of housing, which is desperately needed by the communities. In order for investors and developers to be willing to assume the risk of possible future litigation, they require a substantial return on their investments. This level of return is only achievable by renting the units at full market rate.

Low income housing tax credits (LIHTC) were created in order to encourage development of low and moderate-income rental housing. This additional incentive was devised as a means for overcoming the lower return on investment that would be received by investors on low and moderate income developments and, therefore, encourage more investments to occur. However, the average investor is typically more concerned with receiving a high rate of return rather than obtaining tax credits. As a result, the pool of investors willing to purchase the low income housing tax credits has remained relatively small. Historically, major investors in low income housing tax credits have been large savings associations. These entities viewed the low income housing tax credits as a convenient means to meet their investment requirement under the Community Reinvestment Act. Due to the proposed rule changing the definition of "small" banks by the FDIC, there are very few entities that would remain under the traditional test requiring lending, services, and investments. As a result, the LIHTC system would be put in serious jeopardy. Under the proposed rule allowing the elimination of the investment criteria by permitting intermediate small banks the opportunity to "choose" alternate means (lending and services) to meet their CRA requirements would eliminate the main motivation for these entities to purchase LIHTCs. The further loss of investors would likely cause the entire LIHTC system to implode and with it all hopes for additional rental housing in communities where the need is most urgent.

It is vital to remember the original purpose of the three criteria – lending, services, and investments – used for the existing Community Reinvestment Act test. Each criterion has a unique and important role to play in supporting the vitality of communities in which banks conduct business and receive substantial monetary benefits. The increase in one criterion cannot make up for the deficiency in another criterion, since each functions to serve a unique need. Therefore, to allow intermediate small banks to choose to ignore one or more criteria is a false economy and only serves to undermine the entire purpose of the Community Reinvestment Act. In addition, intermediate small banks have a comparably larger duty to their communities, since they receive a larger benefit from operating within those communities than small banks. These intermediate small banks have more extensive resources available to seek out and encourage investment opportunities that would fulfill their existing investment requirements under the Community Reinvestment Act. It was the recognition of these facts that led to the creation of the original two separate tests for large vs. small banks. While this did impose a greater burden upon banks with assets above $250 million, this burden is fully justified and appropriate.

In conclusion, by allowing the ability for intermediate small banks to "choose" not to make investments or provide services, the FDIC would do a significant injustice to the Community Reinvestment Act and consumers throughout the nation. Only by the FDIC maintaining each of the criterion – lending and community development which requires both an investment and service test will the FDIC stay within the original Congressional intent of the CRA and fulfill its duty to ensure that banks fully serve the communities from whom they receive substantial economic benefits. Thank you for your consideration of our views. If we may provide you with any additional information, please do not hesitate to contact Matthew Roberts, Public Policy Analyst, by phone 213-739-8284, fax 213-739-7255 or e-mail matthewr@car.org.

Sincerely,

Jim Hamilton
President
California Association of REALTORS®